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	OIG-00	NIMA-00	PA-00	MCC-00	GIWI-00	DOHS-00	FMPC-00
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DEPARTMENT FOR S/WCI, AF/E JTREADWELL, INR JBERNTSEN

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 TAGS: [KAWC](#) [PREL](#) [PHUM](#) [UNGA](#) [RW](#) [TZ](#)  
 SUBJECT: ICTR UPDATE: COMPLETION STRATEGY, KABUGA/KENYA,  
 DISPOSAL OF ARCHIVES

REF: A. DAR ES SALAAM 643  
[1](#)B. 2008 DAR ES SALAAM 508

Classified By: Polchief Carl Fox for reasons 1.5 (b/d)

[1](#)1. (C) SUMMARY: In a briefing for Dar es Salaam-based diplomats November 19, International Criminal Tribunal for Rwanda (ICTR) officials said additional time and funding would be necessary for the Tribunal to handle new arrests and other cases that would spill into 2011. ICTR President Judge Dennis Byron said his report on Kenya's apparent obstruction of justice on the fugitive Kabuga would depend on UN Security Council signals. Byron looked forward to cooperating with U.S. Ambassador for War Crimes Stephen Rapp in that regard. The French Ambassador expressed satisfaction with ICTR's cooperation over ongoing court cases in France. For the Quay d'Orsay, preservation and accessibility of archives was the key component of the completion strategy. End Summary.

[1](#)2. (SBU) Emboff participated in a "Friends of ICTR" meeting in Arusha with Tribunal President Judge Dennis C.M. Byron, Prosecutor Hassan B. Jallow, and Registrar Adama Dieng. Also in attendance were Ambassadors from the UK, France, Germany, Belgium, Netherlands, Italy and Canada. Most of the meeting concerned the ICTR's completion strategy and the court's budget request, to be presented to the ACABQ/Fifth Committee in New York at the end of November.

Completion Strategy: Into 2011...

[1](#)3. (SBU) Since September the ICTR rendered three judgments, two acquittals and one sentence-on-plea. The two acquittals were still in the Arusha safe house and that had budgetary implications. There were six ongoing trials, including the high profile Karamire case, in which the key witness's health problems have prolonged the trial. The next trials will start in April and June. There are seven cases of eighteen accused that are in the judgment and drafting phase. Revised projections for judgment delivery in three cases will spill over into 2011. Because of the two October 2009 arrests, ICTR needed new resources now or would have to work with the Office of the Comptroller on how to try them. It was now "almost impossible" to work within the May 2009 budget estimate, Dieng said.

[1](#)4. (SBU) There also were restraints on time that could be spent in the courtroom. The Norway-funded fourth courtroom had been helpful, but operational funding has now been completed and Norway would not give more (Dieng said it was not anticipated in late 2008 that the ICTR would be at "full capacity" in 2010) Byron said that during his last visit to the UN General Assembly, he had "general support" from delegates and the UN secretariat for the terms and conditions for judges that would affect ICTR's completion strategy.

Other funding issues included state cooperation and relocation costs for acquitted persons and discussion in the UNSC on the residual mechanisms for tribunals. (In that regard, Byron said the working group, including participation by NGOs and non-UNSC members was "very fruitful" and proceeding "slowly but surely.")

Kenya/Kabuga: ICTR needs assurances from UNSC

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15. (C) Responding to urging by the UK High Commissioner that the ICTR should name and shame Kenya for its lack of cooperation regarding high-profile fugitive Kabuga, Judge Byron said he had not yet decided whether to make a full report. He had wanted to give Kenya time to respond, but almost a year had elapsed without substantive response from Kenya. When Byron was in New York in October he had heard from "one or two important friends that the time was ripe" to do something. He will mention the case again to the Kenyans, but at the same time the Prosecutor was preparing a strong statement that the ICTR could issue. However, Byron stressed that he needed a signal that the UNSC would do something with a formal ICTR request for action. Judge Byron did not want such an ICTR request to be seen by the Council as a nuisance or - worse - have the statement erode the authority of the Tribunal and the Council should there be no agreement on a way forward.

16. (C) Speaking directly to Emboff, Judge Byron said he was impressed by strong statements on Kabuga's presence in Kenya by U.S. Ambassador for War Crimes Stephen Rapp. Judge Byron wanted to be helpful in S/WCI's efforts to seek justice for Kabuga and welcomed U.S. support with other delegations in that regard.

French focus on archives use

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17. (SBU) French Ambassador Champagne de Labriolle said that trials in France of Rwandan human rights violators continued apace. As the ICTR moved toward a residual mechanism, its archives were especially valuable for use in the French trials. All sides agreed that the current cooperation had been excellent and would expand. Prosecutor Jallow said he planned to reciprocate a recent visit to Arusha by French judges December 10-11.

18. (SBU) Judge Byron recalled that the ICTR has signed a framework agreement with the UK on information and evidence sharing. He encouraged other states to do the same (noting that there would be some variations in a standard MOU based on whether the framework was common or civil law). Dieng said he was pleased that the French were able to take two referral cases and set aside a special branch for war crimes/asylum cases.

LENHARDT